

## Chapter 14

### Educational and Cultural Issues

#### A. CULTURAL PROPERTY: IMPORT RESTRICTIONS

During 2009 the United States took action to protect cultural property in China and Honduras by placing import restrictions on certain Chinese and Honduran archaeological material, as well as certain Chinese artwork and sculpture. The United States acted pursuant to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 823 U.N.T.S. 231 (1972) ("1970 UNESCO Convention"), which the United States ratified in 1983 and implements through the Convention on Cultural Property Implementation Act. See Pub. L. No. 97-446, 96 Stat. 2329, 19 U.S.C. §§ 2601-2613. If the requirements of 19 U.S.C. § 2602 are satisfied, the President has the authority to enter into agreements to apply import restrictions for up to five years on archaeological or ethnological material of a nation that has requested such protections and has ratified, accepted, or acceded to the 1970 UNESCO Convention. The President may also impose import restrictions on cultural property in an emergency situation pursuant to 19 U.S.C. §§ 2603 and 2604.

#### 1. China

On January 14, 2009, the United States and China signed a Memorandum of Understanding ("MOU") concerning the imposition of import restrictions on certain archaeological objects, monumental sculpture, and wall art from China. This action was based on determinations by the Department of State's Bureau of Educational and Cultural Affairs, finding among other things that the cultural heritage of China was "in jeopardy from the pillage of irreplaceable archaeological materials representing China's cultural heritage." 74 Fed. Reg. 2838, 2839 (Jan. 16, 2009). Background information provided by the Department of State's Bureau of Educational and Cultural Affairs is excerpted below. Further information and links to related documents, including the text of the agreement, are available at <http://exchanges.state.gov/heritage/culprop/chfact.html>.

The U.S. action is in response to a request from [the] Government of the People's Republic of China seeking protection of its cultural heritage made under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

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Signed on the occasion of the 30th anniversary of diplomatic relations between the two countries, the MOU establishes a means of cooperation to reduce the incentive for archaeological pillage and illicit trafficking in cultural objects that threaten China's ancient heritage. The MOU also aims to further the international interchange of such materials for cultural, educational, and scientific purposes. To that end, China has agreed to promote long-term loans of archaeological objects to museums. . . .

\* \* \* \*

The categories of archaeological materials covered by the import restriction include objects made of ceramic, stone, metal, bone, ivory, horn, shell, silk, lacquer, wood, paper, and glass. The time period covered extends from the Paleolithic Era (beginning about 75,000 B.C.) through the end of the Tang Dynasty, A.D. 907. Also subject to import restriction are elements of monumental sculpture and other wall art that are at least 250 years old.

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[Restricted objects] may enter the U.S. only if they are accompanied by an export permit issued by the appropriate authority in the Government of China, or by documentation indicating that they left China prior to the effective date of the restriction: January 16, 2009.

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## 2. Honduras

Effective March 12, 2009, the United States and Honduras extended their existing Memorandum of Understanding ("MOU") concerning the imposition of import restrictions on certain pre-Columbian archaeological objects from Honduras. The two countries also amended Article II of the MOU, which sets forth additional measures for each government to take to protect Honduras's cultural patrimony. In one new paragraph of Article II, for example, both governments agreed "to encourage Honduran and U.S. museums and academic institutions to collaborate in ways they deem beneficial, such as traveling exhibits and long term loans of objects, to the extent permitted by the laws of both countries, and under circumstances in which such exchange does not jeopardize the cultural patrimony of either country." The United States and Honduras originally agreed to the MOU on March 12, 2004 (69 Fed. Reg. 12,267 (Mar. 16, 2004)), and the 2009 extension remains effective for five years.

A statement issued by the Department of State's Office of the Spokesman on March 11, 2009, explained that the extension of the MOU recognizes that Honduras's pre-Columbian heritage "is in jeopardy from pillage" and "enables the imposition of import restrictions on certain categories of archaeological material ranging in date from approximately 1200 B.C. to approximately 1500 A.D., including objects made of ceramic, metal, stone, shell, and animal bone." The U.S. statement and the exchange of diplomatic notes between Honduras and the United States concerning the MOU are available at [www.state.gov/r/pa/prs/ps/2009/03/120278.htm](http://www.state.gov/r/pa/prs/ps/2009/03/120278.htm) and [www.state.gov/documents/organization/129819.pdf](http://www.state.gov/documents/organization/129819.pdf), respectively. Further information and links to related documents, including the 2004 MOU, are available at <http://exchanges.state.gov/heritage/culprop/hnfact.html>.

## **B. PRESERVATION OF AMERICA'S HERITAGE ABROAD**

The Commission for the Preservation of America's Heritage Abroad is an independent agency of the U.S. government established in 1985 by § 1303 of Public Law 99-83, 99 Stat. 190, 16 U.S.C. § 469j (1985). Among other things, the Commission negotiates bilateral agreements with foreign governments to protect and preserve cultural heritage. For additional background, see *II Cumulative Digest 1991-99* at 1793-94. In 2009 three agreements the Commission had concluded previously entered into force for the United States. An agreement with Italy, signed on December 18, 2008, entered into force on August 21, 2009. An agreement with Albania, signed on July 12, 2004, entered into force on October 26, 2009. An agreement with Bulgaria, signed on December 5, 2002, entered into force on November 30, 2009. The texts of the agreements are available at [www.state.gov/documents/organization/135114.pdf](http://www.state.gov/documents/organization/135114.pdf) (Albania), [www.state.gov/documents/organization/135117.pdf](http://www.state.gov/documents/organization/135117.pdf) (Bulgaria), and [www.state.gov/documents/organization/129710.pdf](http://www.state.gov/documents/organization/129710.pdf) (Italy).

## **Cross References**

*Underwater cultural heritage*, Chapter 12.A.9.